



**FEDERATION EUROPEENNE DES MEDECINS SALARIES
EUROPEAN FEDERATION OF SALARIED DOCTORS**

**Registered Office/Siège
Social :**
39, rue Victor Massé
F-75009 Paris/France

<http://www.fems.net>

Presidency:
Dr. Claude Wetzel
Hôpitaux Universitaires
F-67098 Strasbourg/France
Tel +33 3 88 12 70 75 ou 76
GSM +33 6 60 55 56 16
Fax +33 3 88 12 70 74
claudewetzel@chru-strasbourg.fr

Permanent Secretariat:
Mrs Brigitte Jencik
Rue Guimard 15
B-1040 Brussels/Belgium
Tel. + 32 2 280 46 80
Fax + 32 2 280 47 80
e-mail: info@fems.net

Date :	03 – 11 - 2009	Document	F09-105 EN
Title / Titre:	Info : EWTD Commission’s 1st consultation draft		
Author/ Auteur :	 Marianne Slegers		

Working Time Directive

Commission’s draft on first consultation seen as biased

By Marianne Slegers |

“Biased” and “not objective” is how sources in the European Parliament describe the current draft of the EU executive that is meant to launch a first consultation with the social partners on a possible review of the Working Time Directive. The said document is still being worked on and has yet to go through “internal Commission procedures”. The communication was originally scheduled for adoption on 11 November. However, the Commission has decided to postpone this date until “possibly before the end of the year,” and the issue has been removed from the executive’s agenda for next week.

Commission sources say the reason for this decision is that the executive is “not in a rush to get the first consultation started” on this issue, which it does not consider a priority.

In the draft, obtained by *Europolitics*, the Commission provides a broad analysis of the situation and sums up the positions of the different institutions. It says that “in the Commission’s view, the present situation is clearly unsatisfactory, and does not ensure that the health and safety of workers is effectively protected across the EU in line with Community law, or that sufficient flexibility is afforded to businesses and workers as regards the organisation of working time”. Furthermore it says the executive is carrying out in parallel “a comprehensive economic and social impact assessment”.

In the current draft, the EU’s social partners (BusinessEurope, CEEP, UEAPME and ETUC) are asked whether they agree with the Commission’s analysis; whether they see the need to add further points for consideration; and whether they see the need for action at Community level on the “key issues” identified in the draft. Based on the results of this

first consultation, the Commission may decide to initiate a second consultation if it deems Community action advisable.

In its draft, the Commission says that its policy objective is to “improve Community law on working time”. In particular, the executive wants to protect the health and safety of workers, provide for balance between family and working life, ensure greater working time flexibility for employers and workers and introduce ‘better regulation’ principles.

BACKGROUND

The Working Time Directive is part of the EU’s health and safety regulations to protect workers. It limits the average working hours per week to 48 hours, but allows member states to opt out from this provision. It also regulates reference period resting time and on-call time. In its earlier proposals, the Commission aimed to update key aspects of the 1993 directive: the definition of on-call time, the reference periods for calculating the 48-hour maximum working week and the opt-out from the 48-hour week, as several Court of Justice verdicts (SIMAP, Jaeger and Dellas) are causing “legal uncertainty” in member states regarding, among other issues, ways to calculate on-call time.

September 2004: Commission puts forward proposal to amend Directive 2003/88/EC (‘Working Time Directive’), following wide-ranging consultations

June 2005: Following the adoption of the EP’s first-reading opinion, in May 2005, the Commission decides to amend its original proposal

June 2008: The member states, after several years of deadlock, adopt a common position on the Commission’s amended proposal

December 2008: During second reading, the EP rejects the Council’s common position by a large majority of 421 to 273 votes. Notably, the opt-out clause and on-call time cause disagreement between the institutions

April 2009: Despite two readings with extensive discussions, followed by a conciliation process, the Council and the EP are unable to reach agreement

November-December 2009: The Commission intends to launch a ‘first consultation phase’ with the social partners on “possible action at Community level regarding any revision of the Working Time Directive” in accordance with Article 138 of the Treaty.